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8 **UNITED STATES DISTRICT COURT**
9 **CENTRAL DISTRICT OF CALIFORNIA**

10 JAMES RIVER INSURANCE
11 COMPANY, an Ohio corporation,

12 Plaintiff,

13 v.

14 CURBSTAND, INC., a California
15 corporation; EDGARDO DE LOS
16 SANTOS MACIAS, an individual,
17 SHAD WHITTEN, an individual,

18 Defendants.

19 Case No. 2:22-cv-06281-RGK

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21 **[PROPOSED] ORDER**
DISMISSING COMPLAINT
AGAINST SHAD WHITTEN
WITHOUT PREJUDICE, AND
AGREEMENT TO BE BOUND BY
JUDGMENT

22 Having considered the stipulation of counsel for plaintiff JAMES
23 RIVER INSURANCE COMPANY ("JAMES RIVER") and defendant SHAD
24 WHITTEN ("WHITTEN"), and GOOD CAUSE APPEARING THEREFOR,
IT IS HEREBY ORDERED as follows:

25 1. The Complaint, and each and every Claim for Relief stated
26 therein, is hereby DISMISSED without prejudice only as to defendant
27 WHITTEN, subject to all of the conditions set forth in this Order.

1 2. WHITTEN shall cooperate with the pending litigation by making
2 himself available for deposition and trial testimony without the need for
3 subpoena upon reasonable notice made by mail to WHITTEN via his
4 attorney of record, Michael P. O'Connor, Esq., Thon Beck Vanni Callahan
5 & Powell, a PC, 140 S. Lake Ave., Suite 208, Pasadena, CA 91101-4904,
6 pursuant to the Federal Rules of Civil Procedure as if he were still a party.

7 3. WHITTEN shall be subject to service by JAMES RIVER of any
8 discovery subpoena pursuant to Fed.R.Civ.P. 45 through his counsel of
9 record via United States Mail and waives personal service of the same as
10 to JAMES RIVER only. By agreeing to service in this manner, WHITTEN
11 does not waive any objections he may have as to any such subpoena,
12 including objections based on the attorney-client privilege, work product
13 doctrine, trade secret, proprietary business information, privacy, right or
14 any other objection made in good faith. During the pendency of this Action,
15 WHITTEN remains subject to the jurisdiction of this Court, for purposes of
16 service of a subpoena or a Notice to Appear at Trial via United States Mail
17 to his counsel as stated in this Order.

18 4. WHITTEN may, at his option, agree to participate in settlement
19 discussions before a Magistrate Judge or other settlement officer duly
20 appointed by the above-entitled Court upon reasonable notice as set forth
21 above, as if he were a party to this Action.

22 5. WHITTEN has acknowledged and waived any rights under
23 California Code of Civil Procedure Section 1989 or its equivalent under the
24 Federal Rules of Civil Procedure and will appear at trial in the pending
25 litigation on notice via United States Mail to his counsel as set forth above
26 as if he were still a party regardless of his residence at the time of service.

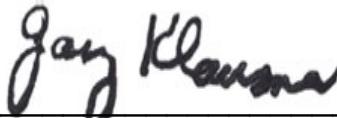
27 6. Notwithstanding dismissal of the within action against
28 WHITTEN without prejudice, WHITTEN shall be bound by any judgment

1 ultimately rendered against CURBSTAND or MACIAS or any other person
2 or entity named as a defendant in the within action as though he were still
3 a party to this Action. To that end, at WHITTEN's request, the Court
4 retains jurisdiction over WHITTEN for that limited purpose.

5 7. JAMES RIVER and WHITTEN shall each bear its/his own
6 costs and attorney fees as respects WHITTEN and this action.

7 8. This Order may be the basis for an instruction to the trier or
8 findings by the Court, but only in a manner not inconsistent with its stated
9 terms.

10 DATED: January 3, 2023



R. GARY KLAUSNER
UNITED STATES DISTRICT JUDGE